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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,103	04/21/2004	Steven M. Benedetti	0275M-000738	5990

27572 7590 08/30/2006

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EXAMINER

AMIRI, NAHID

ART UNIT PAPER NUMBER

3679

DATE MAILED: 08/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Supplemental
Notice of Allowability**

Application No.

10/829,103

Examiner

Nahid Amiri

Applicant(s)

BENEDETTI ET AL.

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 04 August 2006.
2. ☒ The allowed claim(s) is/are 1-3 and 5-7.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

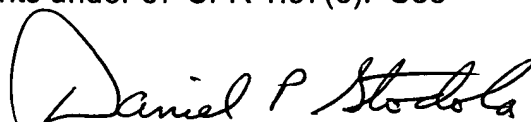
4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 04 August 2006
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

The information disclosure statement filed August 4, 2006 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the submission fails to comply with the requirements of 37 CFR 1.97(d) and (e). In particular, while it is noted that applicants have included a certification under 37 CFR 1.97(e), such certification is an improper certification. Specifically, applicants "certify" that some of the items listed were first cited in a communication from a foreign patent office not more than three months from the filing of the IDS and the remaining items were not known to any individual designated in 37 CFR 1.56(c). This is clearly an improper certification since the date of the European search report is September 17, 2004 while the instant IDS was filed on August 4, 2006. Moreover, the four items on that European search report were listed in copending application serial number 10/842,355 in an IDS filed therein on October 26, 2004. Further, numerous of the remaining listed items were cited by the Office in the respective copending applications on PTO-892s mailed July 15, 2005 and January 9, 2006. Accordingly, it is evident that these items were known more than three months prior to the filing of the instant IDS. The IDS of August 4, 2006 has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicants are advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Stodola
August 29, 2006



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SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600